

**Notice of Allowability**

Application No.

10/823,460

Examiner

KERI A. MOSS

Applicant(s)

GARCIA-FRANCO ET AL.

Art Unit

1797

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Transmittal of New Application filed 4/13/2004 and Request for status filed 11/30/2007.
2. ☒ The allowed claim(s) is/are 1-26.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).  
\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date <u>6/24/04; 11/22/04</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                            | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. During a telephone conversation with Attorney Catherine Bell on February 27, 2008 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-18, withdrawing Claims 19-26.
2. However, the above-referenced Restriction has been withdrawn in light of the Allowance, as described in the reasons for allowance below.

### ***Allowable Subject Matter***

3. Claims 1-26 are allowed.
4. The following is an examiner's statement of reasons for allowance: The prior art does not teach or suggest a method to determine an amount of a comonomer in a copolymer sample by comparing the sample complex modulus as measured at a comparison phase angle to a calibration curve wherein the calibration curve relates a concentration of the comonomer in the copolymer sample to a complex moduli of the copolymer sample.

The prior art method of determining an amount of a comonomer in a copolymer sample involves using  $^{13}\text{C}$ NMR (Villar et al. Rheological characterization of molten ethylene- $\alpha$ -olefin copolymers synthesized with  $\text{Et}[\text{Ind}]_2\text{ZrCl}_2/\text{MAO}$  catalyst, Polymer 42 (2001) 9269-9279). Lohse et al. (Well-Defined, Model Long Chain Branched Polyethylene. 2. Melt Rheological Behavior, Macromolecules 2002, 35, 3066-3075) teach determining the length and amount of branches in a sample using rheological

determinations, but does not teach or suggest determining the amount of a comonomer in a copolymer using the rheological determinations. Bafna (Is the Cross-Over modulus a Reliable Measure of Polymeric Polydispersity? Journal of Applied Polymer Science, 63, 111-113 (1997)) teaches using crossover modulus to determine polymeric polydispersity, but does not suggest determining the amount of comonomer using crossover modulus.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KERI A. MOSS whose telephone number is (571)272-8267. The examiner can normally be reached on 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jill Warden/  
Supervisory Patent Examiner, Art Unit 1797

/Keri A. Moss/  
Examiner, Art Unit 1797  
4/27/08